

WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: SUPPORT SERVICES - SELF-INSURANCE

DATE: JANUARY 10, 2011

COMMITTEE MEMBERS PRESENT:

SUPERVISORS TAYLOR
VANNESS
GIRARD
STRAINER
LOEB
MCCOY

OTHERS PRESENT:

AMY CLUTE, SELF-INSURANCE ADMINISTRATOR
JACK BIENIEK, COOL INSURING AGENCY, INC.
DANIEL G. STEC, CHAIRMAN OF THE BOARD
PAUL DUSEK, COUNTY ATTORNEY/ADMINISTRATOR
JOAN SADY, CLERK OF THE BOARD
KEVIN GERAGHTY, BUDGET OFFICER
SUPERVISORS BENTLEY

COMMITTEE MEMBER ABSENT:

SUPERVISOR MCDEVITT

WOOD
BRIAN LAFLURE, FIRE COORDINATOR/DIRECTOR, OFFICE OF EMERGENCY
SERVICES
AMANDA ALLEN, SR. LEGISLATIVE OFFICE SPECIALIST

Mr. Taylor called the meeting of the Support Services Committee to order at 9:30 a.m.

Motion was made by Mr. McCoy, seconded by Mr. VanNess and carried unanimously to approve the minutes of the prior Committee meeting, subject to correction by the Clerk of the Board.

Copies of the meeting agenda were distributed to the Committee members; *a copy of which is also on file with the minutes*. Privilege of the floor was extended to Jack Bieniek, of Cool Insuring Agency, Inc., who was in attendance to discuss concerns identified in the insurance coverage held by the County with his firm, as per discussions at the December Committee meeting.

Commencing the agenda review with Item III(1), HAZMAT/Pollution Liability Insurance Exposure, Mr. Bieniek noted that the County utilized equipment provided by the State, valued at approximately \$400,000, while acting as the lead organization for a regional group when responding to HAZMAT incidents, including those of a bio-terrorism nature. He advised that in accepting this equipment, the County was required to indemnify the State against any liability issues in connection with the use of said equipment, retaining the financial risk at the County level. Additionally, Mr. Bieniek said the County currently carried environmental liability coverage for underground fuel storage, as well as for the Fuel Farm locations; however, he added, the policy was site specific, only providing coverage for the areas identified within. He apprised that additional coverage would be necessary to address any off-site environmental liability issues realized in connection with HAZMAT operations. Mr. Bieniek concluded that the current policy could be extended to cover environmental liability exposure caused by both off-site HAZMAT operations and bio-terrorism events for an additional premium of \$2,400 for the term extending from January 1, 2011 to December 31, 2012.

In response to Mr. Taylor's inquiry as to how environmental liability coverage would apply in the case of a railroad derailment when hauling hazardous freight, Mr. Bieniek advised that if the derailment was caused by faulty track materials, the environmental liability insurance would be triggered; however, he added, if it was determined to have been caused by operator error, the coverage held by the Railroad Operator would apply.

Mr. Loeb asked for a specific example of a situation in which the additional coverage proposed would be necessary to HAZMAT operations. Mr. Bieniek responded that the coverage would apply in the case of a rollover accident involving a truck carrying fuel products which did not initially have any leakage, but resulted in a spill when the

truck was righted by the HAZMAT team. In this instance, he said the owner of the trucking company would insist that the leak was not caused by the accident itself, but rather through actions taken by the HAZMAT team in clearing the accident scene.

Mr. VanNess pointed out that the HAZMAT team was comprised primarily of City of Glens Falls Firefighters who were well trained to respond in these instances. He further noted that in the case of Mr. Bieniek's example, the HAZMAT team would not take responsibility for righting the overturned truck, but would be present to protect public safety and prevent exposure to hazardous materials. Mr. VanNess then questioned whether the additional coverage would lend any benefits for team members exposed to hazardous chemicals and Mr. Bieniek responded in the negative, adding that Workers' Compensation coverage would apply in this case. Mr. Bieniek expounded that the policy would provide liability coverage for third party exposure to hazardous materials if members of the public were affected.

Mr. Girard noted that although the HAZMAT team had acquired a considerable amount of response training, there were a number of incidents that could happen due to human error that would make the minimal cost of the policy a worthy expense.

Motion was made by Mr. VanNess, seconded by Mr. Loeb and carried unanimously to purchase Hazardous Material Liability Coverage from Cool Insuring Agency, Inc. at an additional premium of \$2,400 for the term extending from January 1, 2011 to December 31, 2012, and the necessary resolution was authorized for the January 21st Board meeting. *A copy of the request is on file with the minutes.*

Moving on to Agenda Item III(2), Airport Liability, Mr. Bieniek reminded the Committee that during their prior meeting he had advised the policy carrier had initially proposed an exclusion of coverage for any claims involving parachuting and sky diving. He said since that time, he had contacted the carrier and successfully negotiated the retention of this coverage on behalf of the County, with no change in liability limits.

Mr. Loeb asked whether this coverage would apply for anyone skydiving at the Airport or only for special events including these activities and Mr. Bieniek replied that the coverage would apply for any instance. Mr. Bieniek expounded that although it was difficult to cite a specific example of when this coverage would apply, he theorized that if windy conditions were present which caused a skydiver to land in a manner that damaged property or injured a bystander, the County could technically be held responsible for not curtailing the parachuting activities due to non-conductive weather conditions. Mr. Loeb then questioned whether they had the ability to regulate where skydiving activities could be held and Amy Clute, Self-Insurance Administrator, apprised that as per information provided by Don DeGraw, Airport Manager, the activities could be regulated, but could not be excluded as per FAA (Federal Aviation Administration) guidelines. Paul Dusek, County Attorney/Administrator, confirmed Mrs. Clute's statement, adding that the issue was moot because the coverage was being continued. He further counseled that Mr. DeGraw should be contacted for additional information on regulatory actions concerning skydiving and parachuting activities.

Continuing to Agenda Item III(3), Flood and Earthquake Coverage, Mr. Bieniek pointed out that the County currently held over \$100 million in property insurance coverage, but carried only the \$1 million in flood and earthquake coverage automatically provided by NYMIR (New York Municipal Insurance Reciprocal). He then distributed copies of a spreadsheet outlining the properties insured by the County and identifying the flood zone determination for each; *a copy of the spreadsheet is on file with the minutes.* Mr. Bieniek noted there were several properties highlighted to designate their location in a Class A flood zone, which was the most likely to be affected by flood conditions; he added that the largest of these properties was the Warren County Fairgrounds located in the

Town of Warrensburg next to the Schroon River. He apprised that damages to properties located in a Class A flood zone would incur a \$500,000 deductible, while those in other flood zones had a \$10,000 deductible. Mr. Bieniek continued that although he did not foresee any type of flood issue occurring on the Municipal Center Campus, there was approximately \$40 million worth of property insured between the Municipal Center and Human Services Buildings that could be affected by an earthquake or earth moving event, in which case he felt the \$1 million policy limits would be found insufficient. He advised that the agenda included quotations for extended limits of \$3, \$5 and \$10 million policies in addition to the \$1 million NYMIR policy.

Mr. Strainer noted that one of the properties listed as having a Class A flood exposure was the North Creek Rail Station and he questioned whether the County needed to carry coverage for this location as the Railroad Operator would be required to carry coverage, as well. Mr. Dusek responded that the Railroad Operator would technically be considered a tenant using the County's property and although they would be required to carry appropriate coverage, the property owner typically carried additional coverage to protect their own interests.

Mr. Girard asked whether this coverage included a percentage co-insurance, similar to that used with fire insurance policies and Mr. Bieniek replied in the negative, advising the policy included flat liability limits. He further advised that the policy included a per occurrence limit, meaning that if an earthquake were to occur, there would be a total of \$1 million from the NYMIR policy, plus the total limit of the additional policy, distributed to fund the loss.

Mr. VanNess questioned how the policy premium would be funded and Mrs. Clute replied with her assumption that the premium would be paid in the same manner alternate coverages were funded, with the different Departments contributing to the expense based on their level of exposure.

Chairman Stec inquired as to whether the increased policy limits would apply to the entire property schedule and Mr. Bieniek replied affirmatively. He then asked whether the policy could be made asset specific to provide coverage for some structures and exclude others in an effort to reduce the premium costs. Mr. Bieniek advised that although they could do this, he felt the premium reduction would be minimal; however, he said, he did not advise this action as he felt the policy should be retained as a blanket to cover all assets, similar to the fire policy.

Mr. Taylor noted that the County was expecting a return of principal from NYMIR in the first quarter of 2011 and he asked whether this amount had already been accounted for in the 2011 Budget. Kevin Geraghty, Budget Officer, advised that the return had not been identified in the 2011 Budget and would be included as an unanticipated revenue when the check was received. Mr. Taylor said that the anticipated return amount was in the area of \$31,000 and if it was not already targeted to cover other expenses, a portion could be used to fund the purchase of the additional flood and earthquake coverage.

Mr. Strainer questioned whether the County had made any claims against the earthquake or flood insurance in the past and Mr. Bieniek replied in the negative. In light of this information, Mr. Strainer said he would prefer to bypass the purchase of additional coverage until a future budget year when appropriate funding was available.

Following further discussion on the matter, motion was made by Mr. VanNess, seconded by Mr. McCoy and carried unanimously to purchase additional flood and earthquake coverage in the amount of \$10 million from Cool Insuring Agency, Inc. for the sum of \$18,249 for the term commencing January 1, 2011 and terminating December 31, 2011, and the necessary resolution was authorized for the January 21st Board meeting. *A copy of the request is on file with the minutes.*

Concluding the agenda review, Mr. Bieniek announced that Agenda Item III(4) pertained to Building Ordinance

and Law Coverage. He explained this coverage would apply for losses to undamaged portions of buildings, demolition costs or increased costs of construction caused by State or building code mandates. For instance, Mr. Bieniek expounded, in the instance that a building was partially damaged by fire and building code personnel determined that the remaining structure was unsafe for renovation requiring demolition and reconstruction, this coverage would apply. Additionally, he said the coverage would address costs incurred in the event that building codes required expanded building dimensions to meet required codes in the event of a total loss. Mr. Bieniek said that typical policies included coverage for like kind and quality replacement; however, he noted, if building code or State mandates determined that alternate building dimensions were necessary upon replacement, these additional costs would not be covered by the base insurance policy. He advised that NYMIR included \$500,000 of this coverage in the policy provided for the County, but that limit was very low based on the total amount of property insured by the County. In an effort to provide more appropriate coverage, Mr. Bieniek noted that he had secured quotations for \$1, \$2 and \$5 million policy limits.

Following a brief discussion on the matter, it was the consensus of the Committee that they would refrain from purchasing additional building ordinance and law coverage for the time being.

As there was no further business to come before the Support Services Committee, on motion made by Mr. McCoy and seconded by Mr. VanNess, Mr. Taylor adjourned the meeting at 10:15 a.m.

Respectfully submitted,
Amanda Allen, Sr. Legislative Office Specialist